

**CITY OF DUBUQUE, IOWA
CITY COUNCIL PROCEEDINGS
REGULAR SESSION**

The Dubuque City Council met in regular session at 6:30 p.m. on May 16, 2016 in the Historic Federal Building, 350 W. 6th Street.

Present: Mayor Buol; Council Members Connors, Del Toro, Jones (via phone), Lynch, Resnick, Rios; City Manager Van Milligen, Assistant City Attorney Brumwell

Mayor Buol read the call and stated this is a regular session of the City Council called for the purpose of conducting such business that may properly come before the City Council.

PLEDGE OF ALLEGIANCE

PROCLAMATION(S)

Bike to Work Week (May 16-20, 2016) was accepted by Dave Hartig of the Bike Coop, 2206 Central Avenue;

DuRide in Service to Older Americans Month (May 2016) was accepted by Greg Orwoll, Executive Director of DuRide, 2728 Asbury Road;

Apples for Students Months (June/July 2016) was accepted by Beth McGorry, Outreach Coordinator for St. Mark Youth Enrichment, 1201 Locust Street.

CONSENT ITEMS

The City Clerk announced a correction to #15 Request for Release of Funds - Fiscal Year 2016 CDBG Annual Action Plan to reflect the change of name to Historic Bluffs Neighborhood Association.

Motion by Lynch to receive and file the documents, adopt the resolutions, and dispose of as indicated including the correction to #15. Seconded by Connors. Motion carried 7-0.

1. Minutes and Reports Submitted: City Council Proceedings of 5/2, 5/9; Civil Service Commission of 4/26; Historic Preservation Commission of 4/21; Investment Oversight Advisory Commission of 4/27; Library Board of Trustees Council Update 4/28; Long Range Planning Advisory Commission of 4/20; Zoning Advisory Commission of 5/4; Zoning Board of Adjustment of 4/28; Proof of Publication for City Council Proceedings of 4/18; Proof of Publication for List of Claims/Summary of Revenues for Month Ending 3/31. Upon motion the documents were received and filed.

2. Notice of Claims and Suits: Rob Klauer / Dubuque Furniture & Flooring for property damage. Upon motion the documents were received, filed and refer to the City Attorney.

3. Disposition of Claims: City Attorney advising that the following claims have been referred to Public Entity Risk Services of Iowa, the agent for the Iowa Communities Assurance Pool: Rob Klauer for property damage; Devon Phillips for property loss. Upon motion the documents were received, filed and concurred.

4. FEMA Fire Prevention and Life Safety Grant Application: City Manager recommending approval to submit an application for a FEMA Fire Prevention and Life Safety Grant. Upon motion the documents were received, filed and approved.

5. Quarterly Investment Report: City Manager transmitting the March 31, 2016 Quarterly Investment Report. Upon motion the documents were received and filed.

6. Civil Service Commission - Certified Lists: Civil Service Commission submitting the certified lists for the positions of Sewer Maintenance Foreman, Foreman, Public Safety Dispatcher and Inspector II. Upon motion the documents were received, filed and made a Matter of Record.

7. Riley Auto Sales Co. - Acceptance of Water Main Improvements: City Manager recommending acceptance of the water main public improvements that the owner, Riley Auto Sales Co., has recently completed adjacent to the south side of their property at 4455 Dodge Street. Upon motion the documents were received and filed and Resolution No. 181-16 Accepting water main improvements in the Dodge Street (US Highway 20) Right-of-Way in the City of Dubuque, Iowa was adopted.

8. Timber-Hyrst Sanitary Creek Crossings Project Award: City Manager recommending that the award for the Timber-Hyrst Estates #4 North and South Line Creek Crossings Project be officially recorded in the minutes of the City Council. Upon motion the documents were received, filed and made a Matter of Record

9. Rustic Point Estates-Preliminary Plat: Zoning Advisory Commission recommending approval of the Preliminary Plat of Rustic Point Estates, 12568 Kennedy Road. Upon motion the documents were received, filed and approved.

10. Table Mound Mobile Home Park - Plat of Survey: Zoning Advisory Commission recommending approval of the Plat of Survey of Table Mound Mobile Home Park on Key West Drive subject to waiving the lot frontage requirement for Lot 2. Upon motion the documents were received and filed and Resolution No. 182-16 Approving the Plat of Survey Table Mound Mobile Home Park in the City of Dubuque, Iowa was adopted.

11. Plat of Survey - Tiefenthaler 2nd Place: City Manager recommending approval of the Plat of Survey of Lots 1 and 2 of Tiefenthaler 2nd Place, in the City of Dubuque, Iowa (North Grandview Avenue and University Avenue). Upon motion the documents were received and filed and Resolution No. 183-16 Approving Plat of proposed vacated right of way of North Grandview Avenue South of University Avenue, being part of Lots 1 and 2 of the Subdivision of Lot 12 of Mineral Lot 172, in the City of Dubuque, Iowa was adopted.

12. Eagle Point Park - Certified Local Government (CLG) Grant Amendment: City Manager recommending approval of an amendment to Certified Local Government (CLG) Grant No. 2015-03 with the State Historic Preservation Office for Eagle Point Park that removes the requirement to complete the second part of the project, the National Register of Historic Places nomination, as part of the grant contract. Upon motion the documents were received and filed and Resolution No. 184-16 Authorizing

amendment to CLG Grant-in-Aid-Agreement with State Historical Society of Iowa to remove National Register of Historic Places Nomination for Eagle Point Park was adopted.

13. Pre-Annexation Agreement – Kemp: City Manager recommending approval of a Pre-Annexation Agreement with James P. Kemp and Kathy J. Kemp. Upon motion the documents were received and filed and Resolution No. 185-16 Approving a Pre-Annexation Agreement between the City of Dubuque, Iowa and James P. Kemp and Kathy J. Kemp was adopted.

14. Mark Fondell Excavating, Inc. vs. City of Dubuque: City Attorney submitting a Summary Judgment dismissing the suit of Mark Fondell Excavating, Inc. vs. City of Dubuque. Upon motion the documents were received and filed.

15. Request for Release of Funds - Fiscal Year 2016 CDBG Annual Action Plan - Historic Bluffs Neighborhood Association (As corrected): City Manager recommending approval of the Request for Release of Funds for the proposed projects approved in the amended Fiscal Year 2016 (Program Year 2015) Annual Action Plan for Community Development Block Grant activities that includes an environmental review of the Historic Bluffs Neighborhood Association's community garden project. Upon motion the documents were received and filed and Resolution No. 186-16 Authorizing request for release of Community Development Block Grant Funds for Fiscal Year 2016 (Program Year 2017) was adopted.

16. National Recreation and Park Association Great Urban Parks Campaign Grant Application: City Manager transmitting the National Recreation and Park Association Great Urban Parks Campaign Grant that was submitted on behalf of the City of Dubuque for components to be developed in the Lower Bee Branch Creek. Upon motion the documents were received and filed.

17. Ham House Masonry Rehabilitation Project - Architectural/Engineering Services: City Manager recommending approval to enter into a contract with Selser Schaefer Architects to conduct consultant services for the Ham House Masonry Rehabilitation Project. Upon motion the documents were received, filed and approved.

18. Five Flags Theater Masonry Rehabilitation and Fire Escape - Architectural/Engineering Services: City Manager recommending approval to enter into a contract with Selser Schaefer Architects to conduct consultant services for the Five Flags Theater Masonry Rehabilitation and Fire Escape Project. Upon motion the documents were received, filed and approved.

19. Public Housing Agency (PHA) Annual Plan: City Manager recommending approval to resubmit the Annual Public Housing Agency (PHA) Plan, along with the Certification for Consistency with the Consolidated Plan. Upon motion the documents were received and filed and Resolution No. 187-16 Authorizing the Mayor to execute the Certification by State or Local Official of PHA Plans, Consistency with the Consolidated Plan and approval of the PHA Annual Plan was adopted.

20. Acceptance of Deed and Assignment of Lease for 2239 University - Fahey Family Limited Partnership / Rainbo Oil: City Manager recommending acceptance of the deed for the property at 2239 University Avenue from the Fahey Family Limited Partnership and acceptance of a month-to-month lease for the Dog House parking lot. Upon motion the documents were received and filed and Resolution No. 188-16 Accepting the Deed to certain real estate in the City of Dubuque, Iowa and an Assignment of Lease from Fahey Family Limited Partnership was adopted.

21. Mystique Casino Request to Construct Outside Patio and Pergola: City Manager recommending approval of a request from Mystique Casino to spend funds from the Dubuque Racing Association Depreciation and Improvement Fund to construct a patio and pergola in the area between the Hilton Garden Inn and Houlihan's Restaurant to meet required Hilton standards. Upon motion the documents were received, filed and approved.

22. IDOT Five-Year Agreement for Maintenance and Repair of Primary Roads in Municipalities: City Manager recommending approval and endorsement of the Five-Year Agreement for Maintenance and Repair of Primary Roads in Municipalities between the Iowa Department of Transportation and the City of Dubuque. Upon motion the documents were received, filed and approved.

23. Southwest Arterial Property Acquisitions: City Manager recommending approval of resolutions accepting Grants of Easements and Deeds to three properties acquired for the Southwest Arterial Project owned by Bob Broughton Investments, Inc.; Arthofer Properties, LLC; Link Properties, LLC; and Menard, Inc. Upon motion the documents were received and filed and Resolution No. 189-16 Accepting a Grant of Temporary Construction Easement for the Southwest Arterial Project from Bob Broughton Investments, Inc., Arthofer Properties, LLC, and Link Properties, LLC; Resolution No. 190-16 Accepting a Grant of Temporary Construction Easements for the Southwest Arterial Project from Menard Inc.; Resolution No. 191-16 Accepting a Grant of Temporary Construction Easement for the Southwest Arterial Project from Bob Broughton Investments, Inc. ;Resolution No. 192-16 Accepting a Deed for the Southwest Arterial Project from Bob Broughton Investments, Inc., were adopted.

24. Signed Contracts: Colleen Lindstrom d/b/a Dubuque by Carriage Eleventh Amendment to Lease Agreement Upon motion the documents were received and filed.

25. Improvement Contracts / Performance, Payment and Maintenance Bonds: MDE, LLC d/b/a McDermott Excavating for the DICS Building Pad 1 Sanitary Sewer Extension. Upon motion the documents were received, filed and approved.

26. Alcohol Compliance Civil Penalty for Alcohol License Holder - Carlos O'Kelly's Mexican Café: City Manager recommending approval of the Acknowledgment/Settlement Agreement for an alcohol compliance violation for Carlos O'Kelly's Mexican Café, 1355 Associates Drive. Upon motion the documents were received, filed and approved.

27. Tobacco Compliance - Civil Penalty for Tobacco License Holder - The Altered State: City Manager recommending approval of the Acknowledgment/Settlement

Agreement for a tobacco compliance violation for the Altered State, 1533 Central Avenue. Upon motion the documents were received, filed and approved.

28. Alcohol License Applications: City Manager recommending approval of annual beer, liquor and wine licenses as submitted. Upon motion the documents were received and filed and Resolution No. 193-16 Approving applications for beer, liquor, and/or wine permits, as required by City of Dubuque Code of Ordinances Title 4 Business and License Regulations, Chapter 2 Liquor Control, Article B Liquor, Beer and Wine Licenses and Permits was adopted.

ITEMS SET FOR PUBLIC HEARING

Motion by Lynch to receive and file the documents, adopt the resolutions, set the public hearings as indicated, and direct the City Clerk to publish notice as prescribed by law. Seconded by Resnick. Motion carried 7-0.

1. Rite Hite/AB(MC)2 Expansion Development Agreement: City Manager recommending that a public hearing be set for June 6, 2016, on the proposal to enter into a Development Agreement with Rite Hite/AB(MC)2 for their expansion project at 4343 Chavenelle Road. Upon motion the documents were received and filed and Resolution No. 194-16 Fixing the date for a public hearing of the City Council of the City of Dubuque, Iowa on the execution of a Development Agreement with Rite Hite/AB(MC)2 and the proposed issuance of Urban Renewal Tax Increment Revenue Obligations and providing for the publication of notice thereof was adopted setting a public hearing for a meeting to commence at 6:30 p.m. on June 6, 2016 in the Historic Federal Building.

2. Vacating Petition - North Grandview Avenue / University Avenue Right-of-Way: City Manager recommending that a public hearing be set for June 6, 2016, on the disposition of a portion of the North Grandview Avenue right-of-way in the southwest corner of North Grandview Avenue and University Avenue to Tom Tiefenthaler of K&T Real Estate, LLC. Upon motion the documents were received and filed and Resolution No. 195-16 Resolution of Intent to vacate and dispose of City Interest in a portion of the right of way of North Grandview Avenue south of University Avenue, being part of Lots 1 and 2 of the Subdivision of Lot 12 of Mineral Lot 172, to be known as Lot 1 of Tiefenthaler 2nd Place, in the City of Dubuque, Iowa by sale to K & T Real Estate, LLC was adopted setting a public hearing for a meeting to commence at 6:30 p.m. on June 6, 2016 in the Historic Federal Building.

BOARDS/COMMISSIONS

Appointment to the following commission was made at this meeting.

1. Building Code and Advisory Appeals Board: One, 3-year term through August 1, 2018 (Vacant term of Carr - Residential Contractor). Applicant: Mark Gudenkauf, 1251 Deer Creek Ridge (Qualifies for Residential Contractor). Motion by Lynch to appoint Mr. Gudenkauf to a 3-year term. Seconded by Connors. Motion carried 7-0.

PUBLIC HEARINGS

Upon motion the rules were suspended allowing anyone present to address the City Council on the following items.

1. Request to Rezone - End of Wolff Road: Proof of publication on notice of public hearing to consider a request by Steve Smith to rezone property at the end of Wolff Road (Parcel ID# 1020376004) from CSc Commercial Service & Wholesale with conditions to LI Light Industrial District and the Zoning Advisory Commission recommending approval with conditions. Motion by Connors to receive and file the documents and that the requirement that a proposed ordinance be considered and voted on for passage at two Council meetings prior to the meeting at which it is to be passed be suspended. Seconded by Lynch. Planning Services Manager Laura Carstens provided a staff report. Motion carried 7-0.

Motion by Connors for final consideration and passage of Ordinance No.15-16 Amending Title 16 of the City of Dubuque Code of Ordinances, Unified Development Code, by reclassifying hereinafter described property located at the end of Wolff Road from CSc Commercial Service and Wholesale District with conditions to LI Light Industrial District with conditions as established in the attached Memorandum of Agreement. Seconded by Lynch. Motion carried 7-0.

2. Request to Rezone - 800 and 804 Rhomberg Avenue: Proof of publication on notice of public hearing to consider a request by Al Urbain Construction Management, Inc. to rezone property at 800 & 804 Rhomberg Avenue from C-1 Neighborhood Commercial and R-2A Alternate Two-Family Residential to C-2 Neighborhood Shopping Center zoning district and the Zoning Advisory Commission recommending approval. Motion by Lynch to receive and file the documents and that the requirement that a proposed ordinance be considered and voted on for passage at two Council meetings prior to the meeting at which it is to be passed be suspended. Seconded by Connors. Planning Services Manager Laura Carstens provided a staff report. Developer Clark Wolff responded to questions from the City Council described the project and provided information regarding the process used to inform adjacent property owners. Motion carried 7-0.

Motion by Lynch for final consideration and passage of Ordinance No. 16-16 Amending Title 16 of the City of Dubuque Code of Ordinances, Unified Development Code, by reclassifying hereinafter described property located at 800 and 804 Rhomberg Avenue from R-1 Single-Family Residential and C-1 Neighborhood Commercial District to C-2 Neighborhood Shopping Center District. Seconded by Connors. Motion carried 7-0.

3. Request to Amend PUD - Historic Millwork District: Proof of publication on notice of public hearing to consider approval of a request by Keith Gutierrez to amend the Historic Millwork District Planned Unit Development (PUD) to allow microbrewery, winery and distillery as permitted uses and the Zoning Advisory Commission recommending approval.

Restated motion by Connors to receive and file the documents and refer the proposed ordinance back to the Zoning Advisory Commission to reconsider as "conditional use" to include conditions such as noise and odor and for staff to expedite the amendment. Seconded by Lynch. Motion carried 6-1 with Rios voting nay.

Assistant City Attorney Crenna Brumwell provided an explanation of simple and super majority votes for the City Council as they pertain to action on this item. Planning Services Manager Laura Carstens provided a staff report and acknowledged receipt of correspondence from Gronen Development. John Gronen, president of Gronen Development, 900 Jackson Street, and architect Jeff Morton stated that while they were excited about the proposed business, they had concerns with noise, odor and delivery traffic associated with microbreweries that may impact adjacent properties and development. Mr. Gronen proposed replacing the permitted use concept with conditional use in the amendment as it would allow a review process. Developer Keith Gutierrez described his proposal and stated that production at his microbrewery would be closer to that of a brew pub and thereby have minimal impact unlike other business already on the list of allowable uses in the district. He added that reconsideration of the amendment would cause some delay on his project, but that he intends to continue as planned. Bob Johnson, 333 E. 10th Street, stated that he has no concerns with Mr. Gutierrez's project, but is concerned about what future projects may bring to the district and supported the conditional use concept. HMD property owner, Tim McNamara, 195 Bradley Street, stated that he welcomes new business but supports the conditional use concept so each business could be scrutinized for potentially unharmonious elements. Nancy Kann of Gronen Development stated that she welcomes Mr. Gutierrez to the Historic Millwork District and that they had discussed project development, but were unable to come to an agreement without a business plan at the time.

4. Carnegie-Stout Public Library Maker Space Project: Proof of publication on notice of public hearing to consider approval of plans, specifications, form of contract and estimated cost for the Carnegie--Stout Public Library Maker Space Project and the City Manager recommending approval. Motion by Lynch to receive and file the documents and adopt Resolution No. 196-16 Approval of plans, specifications, form of contract, and estimated cost for the Carnegie-Stout Public Library's (C-SPL) Maker Space Project. Seconded by Connors. Responding to questions from the City Council, City Manager Van Milligen stated that project expenses are expected to be paid from grants and donations to the Library with no cost to the City. Motion carried 7-0.

Upon motion the rules were reinstated limiting discussion to the City Council.

ACTION ITEMS

1. Public Input at City Council Meetings (2nd Reading): City Attorney submitting a proposed ordinance concerning the placement of Public Input on the Council agenda. Motion by Connors to consider the second reading of a proposed ordinance amending City of Dubuque Code of Ordinances Title 1 Administration, Chapter 6 Mayor and City Council, Article A Rules and Procedure, Sections 1-6A-11 Order of Business and Agenda and 1-6A-14 Rights of Public by clarifying the rules relating to communications to the City Council and the Public Input Agenda. Seconded by Resnick. Motion carried 7-0.

2. Start Time for City Council Meetings (2nd Reading): City Attorney submitting a proposed ordinance adjusting the start time for regular meetings. Motion by Lynch to consider the second reading of a proposed ordinance amending City of Dubuque Code of Ordinances Title 1 Administration, Chapter 6 Mayor and City Council, Article A Rules

and Procedure, Section 1-6A-3 Types of Meeting by establishing the meeting time for regular City Council meetings of 6:00 PM. Seconded by Connors. City Council discussed the pros and cons of the earlier start time. Mayor Buol and Council Member Resnick asked that the third reading of the ordinance be scheduled for the meeting of July 5, 2016 as they will not be in attendance at the June 6 and June 20 meetings respectively. Motion carried 4-3 with Resnick, Del Toro, and Rios voting nay.

3. Rite Hite/AB(MC)² - Iowa Economic Development Authority Application for State Assistance: City Manager recommending approval of the submittal of an Economic Development Assistance Application to the Iowa Economic Development Authority on behalf of Rite Hite/AB(MC)² for their proposed expansion in Dubuque. Motion by Lynch to receive and file the documents and adopt Resolution No. 197-16 Authorizing the filing of an application for State Business Financial Assistance on behalf of Rite Hite/AB(MC)². Seconded by Connors. Motion carried 7-0.

4. North Grandview Avenue, Delhi Street and Grace Street Roundabout Project Award: City Manager recommending award of the construction contract for the North Grandview Avenue, Delhi Street and Grace Street Roundabout Project to the low bidder Portzen Construction, Inc. Motion by Lynch to receive and file the documents and adopt Resolution No. 198-16 Awarding Public Improvement Contract for the North Grandview Avenue and Delhi Street Roundabout Intersection Improvement Project. Seconded by Rios. Motion carried 7-0.

5. Dubuque Industrial Center South - Verena Court Project Award: City Manager recommending award of the construction contract for the Dubuque Industrial Center South - Verena Court Project to the low bidder Drew Cook and Sons Excavating. Motion by Lynch to receive and file the documents and adopt Resolution No. 199-16 Awarding Public Improvement Contract for the Verena Court Project. Seconded by Rios. Motion carried 7-0.

6. English Ridge Subdivision No. 7 - Final Plat: City Manager recommending approval of the final plat of English Ridge Subdivision No. 7 and states that it is in compliance with the City of Dubuque Unified Development Code. Motion by Lynch to receive and file the documents and adopt Resolution No. 200-16 Authorizing approval of the Final Plat of English Ridge Subdivision No. 7 in the City of Dubuque, Iowa. Seconded by Rios. Motion carried 7-0.

7. Code of Ordinances Amendment - Title 7 Tobacco Products to Underage Persons: City Manager recommending approval of an amendment to the City of Dubuque Code of Ordinances Section 7-5A-15, Tobacco Products to Underage Persons, to mirror the Iowa Code, which includes vapor and tobacco alternatives. Motion by Lynch to receive and file the documents and that the requirement that a proposed ordinance be considered and voted on for passage at two Council meetings prior to the meeting at which it is to be passed be suspended. Seconded by Connors. Motion carried 7-0.

Motion by Lynch for final consideration and passage of Ordinance No. 17-16 Amending City of Dubuque Code of Ordinances Title 7 Police, Fire and Public Safety, Chapter 5 Offenses, Article A General Offenses, Section 7-5A-15 Tobacco Products to underage persons to mirror the State Code. Seconded by Rios. Motion carried 7-0.

8. Code of Ordinances Amendment - Title 7 Public Urination or Defecation: City Manager recommending approval of an amendment to City of Dubuque Code of Ordinances Section 7-5A-9, Public Urination or Defecation, that removes the \$50 scheduled fine for the violation and gives the City the ability to set the fine within the simple misdemeanor range. Motion by Connors to receive and file the documents and that the requirement that a proposed ordinance be considered and voted on for passage at two Council meetings prior to the meeting at which it is to be passed be suspended. Seconded by Lynch. Motion carried 7-0.

Motion by Connors for final consideration and passage of Ordinance No. 18-16 Amending City of Dubuque Code of Ordinances Title 7 Police, Fire and Public Safety, Chapter 5 Offenses, Article A General Offenses, Section 7-5A-9 Public Urination or Defecation to remove the scheduled fine. Seconded by Lynch. Motion carried 7-0.

9. 2016 Art on the River Feature - Temporary Loan of "Continuum:" City Manager recommending approval to use the "Continuum," one of the City's first public art acquisitions, as a featured work at this year's Art on the River exhibit. Motion by Lynch to receive and file the documents and approve the recommendation. Seconded by Connors. Motion carried 7-0.

10. Greater Dubuque Development Corporation - Board Membership: Correspondence from Rick Dickinson, President & CEO for Greater Dubuque Development Corporation, requesting confirmation of the Mayor's appointment and two City Council representatives to the GDDC Board of Directors for the terms of Council Members Connors and Lynch that expire June 30, 2017. Motion by Lynch to receive and file the documents and concur. Seconded by Connors. Motion carried 7-0.

11. Request for Work Session - Bee Branch Creek Restoration Project Walking Tour: City Manager recommending that the City Council schedule the Bee Branch Creek Restoration Project Walking Tour Work Session for Monday, May 23, 2016, at 5:30 p.m. Motion by Lynch to receive and file the documents and set the work session as recommended. Seconded by Connors. Motion carried 7-0.

CLOSED SESSION

Motion by Connors at 8:23 p.m. to convene in closed session to discuss pending litigation and property acquisition pursuant to Chapter 21.5(1)(c), -(j) Code of Iowa. Seconded by Rios. Mayor Buol stated for the record that the attorneys who will consult with the City Council on issues to be discussed in closed session are Crenna Brumwell and Maureen Quann. Motion carried 7-0. Council Member Jones left the meeting.

Upon motion at 8:46 p.m. the City Council reconvened in open session having given staff proper direction.

There being no further business, upon motion the City Council adjourned at 8:47 p.m.

Kevin S. Firnstahl, CMC
City Clerk